IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 17387-CAT of 2006

Date of Decision: 03.11.2006

Union of India and others.

.... Petitioners

Versus

Central Administrative Tribunal and others.

... Respondents

Coram : Hon'ble Mr. Justice J.S. Khehar,
Hon'ble Mr. Justice S.D. Anand.

Present : Mr. Sanjeev Manrai, Advocate,
for the petitioners.

J.S. Khehar, J. (Oral)

Through the instant writ petition, the petitioners have impugned the order dated 28.09.2005, passed by the Central Administrative Tribunal, whereby it accepted the claim of the respondent No.2 for seniority and consequential benefits.

It is not a matter of dispute that instructions dated 3.7.1986 regulate the inter se seniority of direct recruits. Clause 2.1 of the aforesaid instructions, which is relevant is being extracted hereunder:-

> "2.1. The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection" (underline emphasis)."

The cadre of Hydrogeologist against which respondent No.2 was appointed and the cadre of Geophysicist to which respondent Nos. 3 to 5 were appointed in fact constitute a common cadre. Respondent Nos. 3 to 5 were appointed as Geophysicist and were placed higher than respondent No.2 was selected by the Union Public Service Commission as a Hydrogeologist on 19.4.1977. Respondent Nos. 3 to 5 were selected by the Union Public Service Commission as Geophysicists on 5.4.1978, 25.4.1978 and 8.5.1978, respectively. Undoubtedly, in terms of Clause 2.1 of the policy instructions dated 3.7.1986, respondent No.2 ought to have been placed at a position higher than respondent Nos. 3 to 5. Additionally, it is not a matter of dispute that two other Hydrogeologists, namely, Sushil Gupta and Anita Gupta selected in the same batch as respondent No.2, as Hydrogeologist, had contested the seniority list in which respondent Nos. 3 to 5 had been placed above them, on the same basis, as respondent No.2 is claiming a higher position in the seniority list over respondent Nos. 3 to 5 in the instant case. Eventually, the claim of the aforestated Sushil Gupta and Anita Gupta was adjudicated upon by the Tribunal and they were placed at position higher than respondent Nos. 3 to 5 in the seniority list. Despite the fact that respondent No.2 continued to address representations to the authorities claiming the same right, his representations remained pending without adjudication. Eventually, when Sushil Gupta and Anita Gupta were placed higher in the seniority list viz. Respondent Nos. 3 to 5, whereas, the claim of respondent No.2 was not considered, he was compelled to approach the Tribunal for being granted the same relief as has been allowed to the batch-mates of respondent No.2. In sum and substance, finding parity of the factual position of the applicant before the Tribunal (i.e. respondent No.2

herein), as well as the fact, that the authorities has implemented the determination at the hands of the Tribunal in favour of Sushil Gupta and Anita Gupta by placing them in the seniority list above respondent Nos. 3 to 5, the Tribunal accepted the prayer of respondent No.2 and granted to him the same benefits, which have already been granted to the aforestated Sushil Gupta and Anita Gupta along with all consequential benefits.

In view of the factual and legal position noticed above, which is not disputed by the learned counsel for the petitioner, we find no infirmity in the determination at the hands of the Tribunal.

Dismissed.

(J.S. Khehar)
Judge

November 03, 2006
vkd

(S.D. Anand)
Judge